IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.9.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case (Appeal) No.328 of 2010

Commissioner of Income Tax
Chennai. ..Appellant

-Vs-

Shri.S.Balakrishnan, ..Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'C' Bench, Chennai, dated 13.11.2009 made in ITA No.2264/Mds/2008 against the Appellate Order of the Commissioner of Income Tax (Appeals)II, Coimbatore,dated 26.09.2008 and made in ITA No.83 C/2007-08 for the Assessment Year 2006-07 and against the Assessment Order of the Deputy Commissioner of Income Tax, Central Circle-III, Coimbatore, dated 26.12.2007 and made in PAN/GIR No.ACEPB 2313 D for the Assessment Year 2006-07

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel assisted by
Ms.V.Pushpa, Jr. Standing Counsel

For Respondent : No appearance.

J U D G M E N T
(Delivered by DR.VINEET KOTHARI,J)

This Tax Case Appeal has been filed by the Revenue, calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, 'C' Bench, Chennai dated 13.11.2009, in I.T.A.No.2264/Mds/2008, for the Assessment Year 2006-2007, by raising the following substantial question of law:

> "Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee is entitled for depreciation on the windmill on the ground that the HT service was effected at 23.59 hrs., on 31.3.2006?"

2. When the matter is taken up for hearing, learned Senior Standing Counsel brought to our notice the Circular instruction issued by the Central Board of Direct Taxes vide Circular No.17/2019 dated 8th August 2019, wherein, it is stipulated that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.1,00,00,000/- (Rupees One Crore).

3. In the instant case, the tax effect is said to be less than the monetary limit imposed and therefore, the Appeal filed by the Revenue is dismissed, as withdrawn, keeping open the substantial question of law for determination in appropriate cases. No costs.

ssk.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Income Tax
Chennai.

2. The Income Tax Appellate Tribunal,
'C' Bench, Chennai,

3. The Deputy Commissioner of
Income Tax,
Central Circle III,
Coimbatore 641 018.

4. The Commissioner of Income Tax
(Appeals)II, Coimbatore,

5. The Deputy Commissioner of Income
Tax, Central Circle-III,
Coimbatore.

+1cc to Mr.M.Swaminathan, Advocate, SR.No.76334

T.C.(A) No.328 of 2010

Kak(16/10/2019)